



Best Practices in Forming and Renewing BIDs

Striking Gold

Best Practices in Forming & Renewing BIDs

Overview

- Statistics
- Types of BIDs
 - Business BIDs
 - Property BIDs
 - Tourism BIDs
 - Restaurant BIDs

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Best Practices in Forming & Renewing BIDs

▪ Best Practices

- Customization to maximize potential
 - PBID v BBID
 - 89 v 94 Law
 - Local Ordinances
- Best Technologies
 - GIS Technology
 - Centralized Electronic Project Management
- Focus on Consensus Building
- Brown Act
- Public Records Act

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Best Practices in Forming & Renewing BIDs

▪ New Developments

- Trend to Develop New Kinds of BIDs
- Non-profit law update
- International BIDs
 - El Salvador
 - Brazil

▪ What's next?

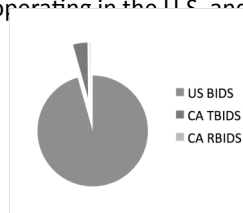
- Wine Tasting Room Improvement Districts
- Potential law changes

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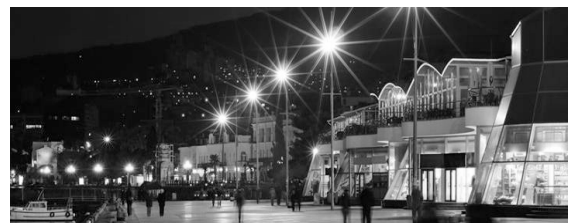
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2010 Statistics

- More than 1,500 BIDs operating in the U.S. and Canada
- 54 TBIDs in California
- 2 RBIDs in California
- BID = Community Benefit District



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Types of BIDs

Types of BIDs

Business BIDs

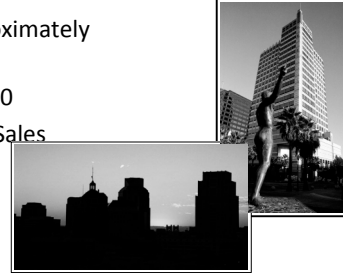
- Formed under the "Parking and Business Improvement Area Law of 1989" or the "Property and Business Improvement District Law of 1994"
- Funded by assessments placed on *businesses* within the district
- Functions aimed at *increasing business activity*; services can include print and internet advertising, special event sponsorship, capital improvements and beautification efforts
- Assessment and operations are determined by the *businesses* funding the BID

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Types of BIDs

Handle Business BID

- Includes Approximately 25 Businesses
- Raises \$200,000
- 1.5% of Gross Sales



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Types of BIDs

Property BIDs

- Formed under the "Property and Business Improvement District Law of 1994"
- Funded by assessments placed on *property* within the district
- Functions aimed at *improving the district*; services can include extra security, clean up and maintenance services, capital and infrastructure improvements and marketing programs
- Assessment and operations are determined by the *businesses* funding the BID

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Types of BIDs

Fulton Avenue Property PBID

- Formed in 1998
- Renewed in 2003 & 2008
- Annual budget approx \$380,000
- Assessment Based on \$.02 per square foot plus \$8.50 per linear ft.



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Property & Business Improvement Districts

Accomplishments

- Signage improvements
- Median landscaping
- Decorative street lighting
- Security and clean up services
- Leveraged budget into \$5.1 million to successfully underground power lines and move water lines to the center of the street



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Types of BIDs

Tourism BIDs

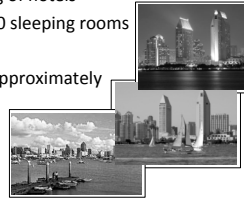
- Formed under the "Parking and Business Improvement Area Law of 1989" or the "Property and Business Improvement District Law of 1994"
- Funded by assessments placed on *certain types of sales* within the district
- Functions aimed at *increasing tourism*; services can include marketing and tourism promotion programs and special event sponsorship
- Assessment and operations are determined by the *businesses* funding the TBID
- Jurisdiction-wide; Assess Hotels Only

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Types of BIDs

City of San Diego Tourism BID

- Established in 2007
- Charter city – local enabling Ordinance – patterned on '94
- 50% petition and 218-style balloting of hotels
- Assessment on establishments of 70 sleeping rooms or more
- 2% of gross revenue, which raises approximately \$29,200,000 per year
- 50% to Convis
- Returning \$8-9m per year currently spent by City



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Types of BIDs

Accomplishments

- Guaranteed funding for CVB
- Funding for special event hosting and promotions
- Funding for non-profits promoting San Diego



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Types of BIDs

Restaurant BIDs

- Formed under the "Parking and Business Improvement Area Law of 1989" or the "Property and Business Improvement District Law of 1994"
- Funded by assessments placed on *restaurants and similar eatery establishments* within the district
- Assessment based on *maximum occupancy* and aimed at *increasing food sales*
- Operations are determined by the *restaurants* funding the RBID; services can include security, clean up and marketing

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Types of BIDs

Newport Beach Restaurant BID

- Established in January 1996
- Annual budget around \$315,000
- Services include advertising campaigns, direct mailers, online reservation system, dining guide productions, sponsorship of restaurant week
- Five year contract with the city for funding



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Best Practices in Forming & Renewing BIDs

The Brown Act

Brown Act

- California Government Code §§ 54950-54963
- Must have meeting open to the public
- Intent is that decision-making is as transparent as possible

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The Brown Act

Who Must Follow the Brown Act? (General)

- All local public agencies
- Their Boards and Commissions committees and subcommittees (except – ad hoc committees)
- Private corporation or entity created by the elected body
- Group receives funding city and Councilmember / Boardmember.

The Brown Act

Application

- California Streets and Highways Code (Section 36614.5) requires all “Owner’s Associations” comply with Brown Act and Public Records Act
- Other BIDs/Organizations must look to *Epstein* case to determine compliance

The Brown Act

Epstein vs. Hollywood Entertainment District

- Owners created non-profit corporation concurrent with PBID
- Court said that City “played a role in bringing” the corporation “into existence.”
- “...by giving the BID the legal breath of life, the City breathed life into the [corporation] as well.”
- Corporation “...was not simply a pre-existing corporation which just ‘happened’ to be available to administer the funds for [the PBID].”

The Brown Act

Basic Requirements

- Deliberation in public – meetings open to the public
- Allow public to speak
- Notice of meetings – post agendas 72 hours in advance
- Discuss items on agenda

The Brown Act

What is a MEETING?

- Congregation of a majority of members
- Direct communication (Seriatim)
- Personal intermediaries
- Technological devices
- No secret ballots

The Brown Act

Rights of the Public

- Public comment
- Not required to register
- Copy of agenda and packet by mail.
- Record, video tape or broadcast

The Brown Act

Penalties

- **Criminal**
 - misdemeanor
- **Civil**
 - Injunctive Relief
 - Voidability of Action
 - Attorney's Fees

Public Records Act

Public Records Act

- Public has right to documents unless covered by an exemption
- Exemptions include litigation and attorney records, preliminary notes drafts and memos, personal medical records, etc.
- Must request documents in writing – must reasonably describe any identifiable record(s)
- District has 10 days to respond – ability to increase timeline to 24 days

Customization to Maximize Potential

'89 v '94 Law

SUBJECT	1989 ACT	1994 ACT
District Term	Formed and renewed for a 1 year term	Initially formed for up to 5 years ; can be renewed for up to 10 years
Initiation Process	Adoption of a Resolution of Intention by City Council or Board of Supervisors; can adopt this resolution of its own accord	Petition drive; petitions must be signed by businesses who will pay at least 50% of proposed assessment
Renewal Process	Publication in newspaper, two City or County hearings	Management plan, petition drive, adoption of resolution by City or County, public meeting and public hearing

Customization to Maximize Potential

'89 v '94 Law

SUBJECT	1989 ACT	1994 ACT
Governing Body	Advisory Board appointed by City Council or Board of Supervisors	Corporation chosen and organized by the stakeholders
Governance Process	Decisions made by Advisory Board and corporation with City or County oversight	Decisions made by corporation, guided by a management district plan approved by stakeholders
Corporation Public Entity Status	City or County may consider corporation to be a public entity for certain laws	Express exemption for corporation—not considered a public entity

Customization to Maximize Potential

Local Ordinances

- Many cities deciding to create their own ordinances
- Can be based on '89 or '94 Law
- Can allow for flexibility in district guidelines
- Enables cities to add their own guidelines and restrictions

Customization to Maximize Potential

Local Ordinances Example: San Diego (based on '94 Law)

- Ordinance No. 2007 – 101; adopted May 22, 2007
- Does not allow for issuance of bonds
- MPD requires procedures for electing Board of Directors
- Requires assessment ballot for business based assessment
- Exempts stays over 30 days, government employees and those exempt from TOT by Treaty
- City must provide TMD with statement on actual TOT revenues
- City must contract with TMD corporation
- Upon termination district must return assessment to businesses

Customization to Maximize Potential

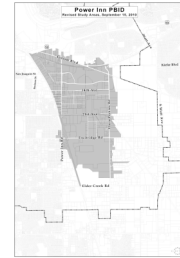
Local Ordinances Example: Folsom (based on '89 Law)

- Ordinance No. 959; adopted July 9, 2002
- Requires annual report submission to city Clerk and Council
- Appoints governing corporation rather than advisory board
- New establishments shall not be assessed until following fiscal year
- Limits activities district can undertake

Best Technologies

Geographical Information System

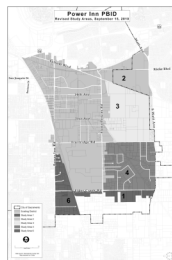
- Creates a customized map of a district
- Utilizes the most recent property information from counties
- Identifies supportive, opposed and undecided owners at a glance
- Creates databases from maps
- Quickly adds or removes properties
- Easily manipulates zones and boundaries
- Identifies multiple property or business types



Best Technologies

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Best Technologies

Map Types

- Owner support or opposition
- Benefit zone boundaries
- District boundaries
- Property of business type
- Potential expansion areas



GIS map showing owner support inclinations

Best Technologies

Advantages

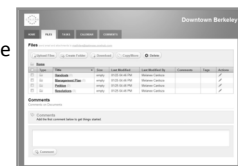
- Saves time and money by quickly producing maps and databases
- Increases accuracy by working with maps instead of individual parcels
- Quickly and easily updates information as owners inclinations change
- Modifies maps and allows viewing of owner information in real time at meetings
(technical requirements apply)



Best Technologies

Centralized Project Management

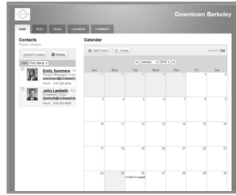
- Web-based collaboration tool that coordinates projects
- Provides secure website for online project management
- Can be accessible to the public or restricted to people working on the project



Best Technologies

Functions

- Create project-specific websites
- Easily upload contacts and calendar
- Upload and access documents, photos and presentations and other files
- Comment on documents to coordinate with others



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Marketing Studies

Marketing Studies

- Used in Rancho Cordova
- Identified needs and strengths of area
- Provided leverage to meet needs

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New Developments

New Developments

Non-Profit Law Update

- Non-voting directors no longer allowed:
 - Advisory Committee
 - Guests
- Ex-officio directors now have *all* the rights of a director
- Only directors can serve on committees that exercise board powers
- Directors may not vote by proxy
- Each director may only have one vote

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New Developments

International BIDs

- BIDs Throughout North America
- CA 40th State to Have PBID Law
- Moved to the UK in 2000
- South Africa / Caribbean / Germany
- El Salvador / Brazil / Singapore

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What's Next

What's Next?

Wine Tasting Improvement Districts

- Currently being investigated by several communities
- Assessment based on tasting room sales
- Funding for promotional activities to increase number of visitors and to attract new wineries to the area

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California Downtown Association

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Thank You

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What's Next?

Proposed Changes to 1994 Law

- Clarify that business owners' representatives can act on behalf of business
- Remove notice and assessment diagram for business-based districts
- Allow the State to form districts
- Clarify proceedings for districts with an assessment on business and property
- Clarify contents of required notice
 - Assessment amount for property
 - Assessment rate for business

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